Sectt. II-27—104,000—4-11-

(195) Demand

Ms SERIES.

G.O. NO. Ms.5322

5322

Dated 29th December 1951.

[Despatch Abstract.]

Ports - Mangalore - Refund of shipping dues - Sanctioned as special case.

From:
J.M.Balmforth Esq.,
Presidency Port Officer,
Madras.

To:
The Secretary to Government,
Public Works Department,
Madras.
THROUGH The Examiner of L.F.Accounts,
Madras.

EXAMINER OF LOCAL FUNDS ACCTS. 12 SEP 1950 MADRAS

ASST. SECRETARY TO GOVERNMENT F OCT 1950 3182 PUBLIC WORKS DEPARTMENT

No. 2092/50-7 dated 31st August 1950.

Mangalore - Refund of shipping dues amounting to Rs.597-3-4 - sanction requested.

--

I forward herewith copies of Endt. No.4516-49-7 dated 5-4-50 and letter No.1507/50-1 dated 22-5-50 received from the Port Officer, Mangalore requesting that sanction of Government as a special case be obtained for refunding shipping dues to various merchants amounting to Rs.597-3-4 for the reasons given below.

(1) That the refunds claimed by the merchants are on goods which have not been shipped and on which shipping dues have been paid.

(2) It is not possible for the Port Officer to say whether the various applications for refund have or have not been preferred by the parties within the time-limit of six months enjoined by rule 17(3) of the rules for the levy of landing and shipping fees and

(3) The Port Conservancy Board, Mangalore, the authority empowered to grant refunds if they are satisfied that the refunds claimed are in order - vide para 195-B(2) of the Port Manual, has recommended that the benefit of the doubt be given to the merchants and the refund be paid to them.

2. In the circumstances, I request that the sanction sought for may please be granted.

3. A statement showing the amount of refund due to the various merchants duly certified by the Port Officer to the effect that the refund applications have been checked in conjunction with the applications to export and manifests and are correct, is enclosed.

4. The Port Officer has since been maintaining a register of refund applications received which are duly dated and initialled by the Port Officer or the Port Conservator (Head Clerk).

Yours faithfully,

J M Balmforth

Presidency Port Officer

Encls: 2 Copies & Letter & one statement

L... 6314 8/10/50

AT/31.

From the Port Officer, Mangalore.
To the Presidency Port Officer, Madras.
No.1507/50-1 dated 22-5-1950.

Mangalore Port - Refund of shipping dues - Messrs. M.Rebello & Sons - Mangalore - Your Memo No.209 G1/50-4 dated 2-5-1950.

Thirtytwo applications for refund of shipping dues which do not either bear the office date or the dated initials of the Port Officer or Port Conservator (Head Clerk) filed by various parties are enclosed herewith duly assessed. It is not possible to say whether these applications were filed in this office before or after the time ~~of~~ limit prescribed under the landing and shipping rules as apart from the omission of the office dates or the dated initials thereon no other records are also available in this office to show the dates on which they were actually filed in this office. Presumably these applications were filed by the various parties with the shroff or the landing and shipping clerk direct as in the case of export and import applications instead of with the Port Conservator (Head Clerk) and that the above clerks failed to submit them to Port Officer's initials through the Head Clerk in which case they would have borne both the office dates and the dated initials either of Port Officer or the Port Conservator (Head Clerk) In the absence of this office dates or the dated initials on these applications it is also not possible to ascribe responsibility for nonobservance of the rules and regulations on any one of the existing clerks or the clerks who have worked in this office before and since been transferred or retired.

In view of the above and also in view of the resolution of the Port Conservancy Board, it is submitted that Government may please be addressed to condone the above lapse and accord special sanction for refund of the amount of Rs.597-3-4 covered by these bills.

With reference to para 2 of the above memo it is submitted that the parties have since been asked to file all applications for refund of landing and shipping dues with the Port Conservator (Head Clerk) as in the case of other papers which are sent up to me for my initials after affxing the office date. They are then entered in the distribution register maintained by the Record Clerk and delivered to the shroff for further action on obtaining his acknowledgments therefor. They will also be registered in the register of currents in future.

(True Copy)

Presidency Port Officer

1088 Dlg 46

Resolution No.XII of the Port Conservancy Board, Mangalore dated 17th January 1950.

Read Presidency Port Officer's Memo No.1088 A/49-3 dated 14-12-'49 Re: refund of Shipping Dues 1946-47 and 1947-48 to Messrs M.Rebello & Sons, Mangalore together with the connected records.

Port Officer's note dated 11-1-1950 thereon.

"Resolved to give the benefit of doubt and payments made."

No. Legis 16/49-9.

Copy with copy of the note dated 10-1-1950 referred to thereon, in duplicate submitted to the Presidency Port Officer, Madras with reference to his No.1088 A/49-3 dated 14-12-1949 and No.209 G1/50-3 dated 28-3-1950.

There is no record of the application dated 7-12-1946 as having been filed in this office on 8-12-1946 as contended by Messrs M.Rebellow & Son nor of any of the other 31 applications covered by the above resolution. It may please be noted in this connexion that 8-12-1946 was a Sunday and how this particular refund application happened to be filed in this offic on a Sunday as contended by Messrs M.Rebellow & Sons in their letter No. 170/60 dated 19-8-1949 is an interesting question which requires careful investigation. The amount covered by this application is Rs.10-15-0 and the amount covered by all the 32 applications referred to in my above note to the Port Conservancy Board including this refund application is Rs.597-3-4.

In view of the above resolution of the Port Conservancy Board it is requested that Government may please be addressed to accord sanction to the payment of the above sum of Rs.597-3-4 to the parties concerned to avoid

avoid audit objection.

Port office, Mangalore.)
Dated 5th April 1950.)

N. Ghandas 5/.
Port Officer.

Copy of Note to the Port Conservancy Board, Mangalore, dated 10th January 1950.

Mangalore Landing nd Shipping dues refund of shipping dues 1946-47 and 1947-48.

Thirtytwo Refund applications filed by various parties do not bear the office seal and it is not possible to say that they are not time barred as having been filed before lapse of 6 months. For consideration of the Board if these applications may be considered to have been filed in time and refund paid on that presumption in the absence of other proof.

an/year Statement of Refunds

Name of Claimant	Number of Settlement Application for Refunds	Amount of Refund Claimed	Reasons for the Refund	Total due to each party
M Rebellion Sons	1525	2 8 -	Send Sh [illegible] payment of [illegible]	
	1563	- 5 -	✓	
	1600	- 12 -	✓	
	2561	1 8 -	✓	
	3265	- 5 7	✓	
	3601	- 5 -	✓ [illegible] refund included	
	3678	- 12 -	✓ [illegible]	
	3827	- 5 -	✓ [illegible]	
	3857	1 4 -	✓ [illegible]	
	4293	11 4 -	✓ [illegible]	
	5028	3 12 -	✓ [illegible]	
	5266	1 14 -	✓ [illegible]	
	5769	1 4 -	✓ [illegible]	
	5770	2 8 -	✓ [illegible]	
	6788	3 12 -	✓ [illegible]	
	3597	3 12 -	✓ [illegible]	
	3948	1 8 -	✓ [illegible]	
	4166	- 12 -	✓ [illegible]	
	4721	9 -	✓ [illegible]	
	4933	- 12 -	✓ [illegible]	
	5572	3 -	✓ [illegible]	
	5707	- 12 -	✓ [illegible]	
	59	3 -	✓ [illegible]	
	899	21 12 -	✓ [illegible]	
	1847	- 10 -	✓ [illegible]	
	1882	1 4 -	✓ [illegible]	
	2290	- 10 -	✓	
	2706	1 14 -	✓ [illegible]	

E. L. McGregor	3002		5	Short shipped for want of space	
	3071		10	"	
	3177		1 4	"	
	3209		3 12	"	
	3521		10	"	87 · 9 · 7
2. M/s A. S Tejpal	1039		15	Part shipped and Cargo was not ready	0 · 15 · 0
3. Messrs. K. M. Chandra Modhwa Das and Co	1066		6 4		6 4 - 0
4. Messrs. S Walthalal & Co	880		1 6 6	Short shipped for want of space	
	1008		1 14	"	
	1097		2 14 6	"	
	1133		15	"	
	1134		1 14	"	9 - 0 - 0
Sa H J Sanjana	2130		12	Vessel journal not received	
	2462		12	"	
	2498		12	"	
	4087		12	"	
	4375		12	"	
	4378		2 4	"	
	4441		6	"	
	4743		12	"	
	4893		12	"	
	4967		1 8	"	
	7276		3 12	"	
	7277		3 12	"	
	7959		12	"	17 10 - 0
					121 - 6 - 7

6. L. Vasudeva & Co	6764	2	13	-	Short shipped	121 - 6 - 7
	16		-	9		
	7993	1	14	-		
	5767		-	15	-	
	5770		-	4	6	
	6300		-	7	6	
	6370	2	5	6		
	8053	1	6	6		
	8058	90	13	-		
	198		-	9	-	
	246	14	1	-		
	343	7	8	-		
	7568	3	4	6		
	8013	2	7	-		129 - 5 - 6
7. M/s D H E Kalasi	6792	4	15	6		
	6791	2	1	9		
	6009	1	8	-		
	6010	5	4	-		
	6008	3	-	-		
	6447	3	4	6		
	7340	6	12	-		
	1127	3	12	-		
	1371	3	8	-		34 - 1 - 9
8. Sri M Anandan	3520	14	4	-	Separate shipping bill & weight chits	
	6978	13	8	-		27 - 12 - 0
7. M/s M Fernando	5953	13	8	-	Grocer found under separate heading not shipped	13 8 - 0

326-1-10

15

	Vinayak Gulab	0400		12		465-5-4
		3573		12		
		3755	5	4		
		4238		12		
		4243	2	4		
		4303		12		
		7850		12		
		1512		10		
		1661		12		
		1757		12		
		1792	1	8		
		1862		12		
		2161	1	8		
		2319	7	14		45-10-0
16	R J Rego	2748	9	12		
		4943	29	11	6	39 7 6
	B P Parakh	1155	5	10	Cargo sent to Bdy	
		8039	6	1	6	
		884	23	14	6	
		855		9		
		1109	2	2	6	
		1108	6	1	6	44 7 0
15	Messrs Shajagunthilal Khetsi	492		7	6	Short ship
		1382		1	14	2 5 6
						591-3-2

Grand Total

(Rupees Five hundred ninety one, annas three and pies four.)

Certified that the relevant refund applications have been duly checked in connection with the applications for Export and necessary vouchers are held to the Credit

Mangalore
13-7-50

Asstt
Port Officer

17

PWD(F)

Memo.No.3182F/50-1 dt. 28.10.50.

24/30110

Sub: PCRTS - Mangalore - Refund of Shipping Dues amounting to Rs.597-3-4 - Sanction of

Ref: From the Presidency Port Officer No.20961/50-7 dated 31-8-50

Ex Rv. I dt 28.11.50 sent to P.P.O. 28/11/50

The Presidency Port Officer is requested to state the procedure obtaining at the other minor ports in the State for making similar refunds of shipping dues levied on goods which were not shipped and on which shipping dues had been paid. He is also requested to state how it is not now possible to say whether the application for refunds were received in time or not, and whether it may not be possible to verify this from the dates available in the counterfoils of the chalans in which shipping dues were received and the original appliations for refunds filed in the Port Office, Mangalore.

vide para 4 of the letter dt 3.11.50

2. In addition, he is also requested to furnish a detailed statement showing the following particulars:-

1) Name of claimant.
2) Number of Export Application
3) Number and date of the counterfoil of chalan in which shipping dues were received.
4) Amount of refund applied for
5) Specific reasons for refund
6) Date as furnished by the applicant for refund
7) Whether the goods were subsequently shipped/if so, whether shipping dues for subsequent shipping were received.

p.t.o.

8) whether the claimant is eligible for refund with reference to rule 17(3) of the rules for Levy of landing and shipping dues.

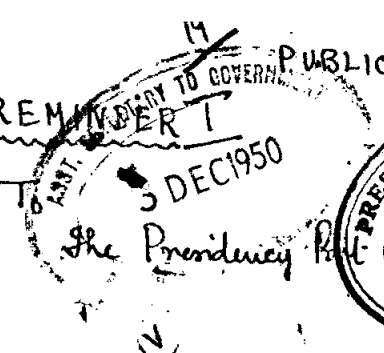
3. The Presidency Port Officer is also requested to state what action was taken on the persons concerned for the serious irregularity committed by not maintaining the registers properly in forms Nos 4 and 5 given in Appendix IV to the Port Manual and also by not affixing the office date stamp and initials on refund applications.

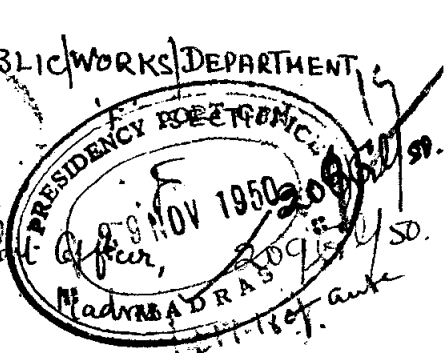
To

The P.P.O., Madras

PUBLIC WORKS DEPARTMENT

REMINDER I





To

The Presidency Port Officer,
Madras.

I am directed to invite attention to Govt. Memo. no: 3182 E/50-1 P.W. dt. 28-10-50 and to request that this reminder may be returned ~~at once~~ with information as to the date by which a reply may be expected.

Public Works Secretariat,
Fort St. George.
Dated the 28th Nov. 1950.

K. V. Narayanaswami
for Superintendent.

SUBJECT.

Ports - Mangalore - Refund of Shipping Dues amounting to Rs. 597-3-4.

90

3112/50

II

3720

No.209 G1/50-12.

Retransmitted

2. The reports from the Port Officers Koshikode and Mangalore who have been referred to in the matter are awaited. On receipt of these reports a reply will be submitted to Government.

Madras,
2-12-50.

PRESIDENCY PORT OFFICER

S1

M.V.(F)

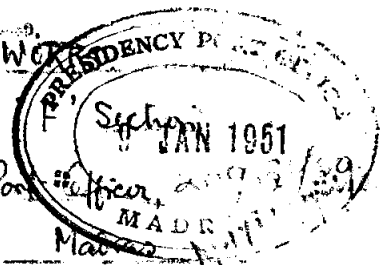
A.R. till 5.1.1951

Kly 5.12.50.

Kow 5-12-50

Issue Extract 6.1.51 issued 6.1.51

PUBLIC WORKS



To

The Presidency Post Master,
Madras.

Sir,

I am directed to refer to Govt. Memo: No: 3182 F/50-1 P.W. dated 28-10-50 and your reply 209 Gl/50-12 dated 2.12.50 to Exchange Memo: and to

P.W. Scott.
Fort St. George
6.1.1951.

K.V. Narayanaswami
For Assistant Secretary to Government.
6.1.51.

SUBJECT.

Ports. Mangalore - Refund of Shipping Dues amounting to Rs. 597-3-4.

[illegible] 6/15-15

JAN 1951 REPLY.

[illegible] to Government,
[illegible].D.,
Madras.

Forwarded.

The report from the Port Officer Cuddalore is still awaited. On receipt of the report a reply will be submitted to Government. The Port Officer has been reminded and asked to submit the report expeditiously.

[signature]
Presidency Port Officer

Madras, 11-1-51

AO/11.

PN. (F)

A. R. Tilli 20.2.51

16.1.51.

Kun
16-1-51

17/1

Memo. No: 3182-F/50-2 dated 21.2.51 [M(F).

Sub: Portl. Mangalore. Refund of Shipping Dues amounting to Rs 597-3-4.

Ref: From the P.P.O., Reply dtd 209-Acc/50-15 dt: 11.1.51 &
Ex. reminder dt: 6.1.51.

The P.P.O. is requested to state when his final reply to Govt. Memo: no. 3182-F/50-1 M. dt. 28.10.50. may be expected.

TO
The P.P.O., Madras.

20.2.51.

20.2.51

21/2

25/

M.M.(F).

36 21/3 Memo: no: 3182F/50. 3. dated. 21.3.51.

Sub: Posts - Mangalore. Refund of Landing and Shipping Dues amounting to Rs 597-3-4.

P 23 Ref: Cont. Memo: no: 3182F/50.2/Pw. dated 21.2.51.

—

The P.P.O., Madras is requested to state when his final reply in the matter may be expected.

To
The P.P.O., Madras

24/3

20.3.51

2057

R

2057

From
J.M. BALLFORTH,ESQ.,
Presidency Port Officer,
Madras 1.

To
The Secretary to Government,
Public Works Department,
Madras.

No.209 G1/50-17. dated 22-3-51.

Sir,

Sub:- Ports - Mangalore - Refund of shipping fees - Sanction.

Ref:- Government Memo No.3182 F/50-1, P.W. dated 28-10-50.

A register of refunds, showing amongst other particulars, the date of receipt of the refund application, as outlined in this office circular No.26/43, dated 22-4-43 (copy enclosed) is maintained at all the minor ports in the state where the Madras Outports Landing and Shipping Fees Act is in force, excepting at the ports of Kakanada and Mangalore. The Port Officers at the latter two ports have since been asked to maintain the register and to report the names of the subordinates who are responsible for the serious ~~xxx~~ irregularity of not maintaining the register.

2. As the refund applications under reference do not bear either the office date stamp or the dated initials of the official who received them, it is not possible to say, whether they were received in the Port Office within the time limit prescribed in rule 17(3) of the rules for the levy of Landing and Shipping Fees Except for one item (export application No.2599 dated 24-11-47 filed by M/s. M.K. Lal & Co.) all the claims are within the time limit of 6 months prescribed in the rules counting from the date noted by the claimants on the respective refund applications. In this connection, I forward herewith a copy of the correspondence that passed between Messrs. Rebello & Sons, Mangalore one of the claimants for refund of shipping dues amounting to Rs.10-15-0 and the Port Officer, Mangalore on the subject of their two, more or less, identical applications for refund but bearing different dates, one so dated as to be within the time limit above referred to (viz. 7-12-46) and the other dated 30-5-47 and therefore time barred - vide the two applications enclosed (Nos.31 and 31(a)). The explanation of the company that their application dated 30-5-47 was only a copy of their application dated 7-12-46 is unconvincing in that, the time barred application dated 30-5-47 contains 10 items for refund and ten receipts surrendered as enclosures thereto amounting in all to Rs.11-9-0 whereas the other application which does not bear the office date stamp contains only 9 items for refund omitting the 10th item for which no refund was found admissible. The latter application although dated 7-12-46 would appear to have been prepared subsequent to their application dated 30-5-47 after ascertaining that their application dated 30-5-47 was time barred and contains 10 items for refund instead of 9 only. It is for consideration whether this company's claim may be rejected on the ground that their explanation is unconvincing.

3. There are no counterfoils of chalans in which shipping dues are received but only copies of export applications filed by parties are available in the Port Office - vide rules 3, 4 & 5 of the rules for the maintenance of the accounts of Landing and Shipping Fees collected, pages 207 & 208 of the Madras Port Manual. There are no original applications for refunds filed in the

the Port Office, Mangalore, other than the applications herewith submitted. It is therefore not possible to exercise the check referred to in para 1 of the Government Memo cited.

4. A detailed statement showing the particulars required is furnished in the accompanying statement. The Port Officer Mangalore is being asked to explain the remark "the claimants are not eligible for the refunds applied for under rule 17(3) of the rules for the levy of Landing and Shipping fees" made by him in this statement - vide copy of this office Memo No.209 G1/50-18, dated 22-3-51 enclosed. A further report on the subject will be submitted on receipt of the reply from the Port Officer, Mangalore.

5. Forms 4 & 5 appended to the rules in Appendix IV to the Madras Port Manual have been discontinued as a measure of stationery economy.

Yours faithfully,

Presidency Port Officer.

P.22.

Encls.
1. copy of Circular No.26/43, dated 22-4-43
2. One detailed statement of refunds.
3. Copy of this office Memos No.209 G1/50-18, & 19, dated 22-3-51.
4. Copy of correspondence between M/s.Rebellow & Sons and the P.O.Mangalore.
5. 32 refund applications including two refund applications of M/s.Rebellow & Sons.

31

No.26/43.

Presidency Port Office,
Madras, 22nd April 1943.

CIRCULAR.

All Port Officers and Port Conservators or ports where the L. & S. Fees Act is in force.

L. & S. Fees accounts - maintanance of - Discontinuance of forms 4 & 5 - Government Memo No.1608 VI/43-1, P.W.D., d.13-4-43.

A copy of the memorandum cited above, is communicated to all Port Officers and Port Conservators concerned for information and guidance The maintenance of L. & S. forms 4 & 5 shall be discontinued with effect from 1-6-43. On and from this date, the following procedure shall be followed.

1. The daily total of collections of fees shall be worked out on the reverse of the last Export or Import application, as the case may be, passed for the day or if necessary on a separate sheet of paper, showing the No. and amount collected on each application and initialled by the Port Officer authorised to collect L. & S. fees at the port. Progressive monthly totals shall similarly be worked out each day there is collection of fees. Import and Export applications passed in a day shall be separately stitched together, with the daily total sheets whenever available. The applications shall thereafter be placed in file boards arranged chronologically, tied up with twine crosswise and kept in an almirah under lock and key in the personal charge of the officer referred to above.

2(a) A new register of refund of L. & S. fees (in manuscript) shall be maintained as and from 1-6-43 in respect of all refund applications admitted by the above officer. It should contain the following columns.

(1) Date of receipt of refund application
(2) Serial No.(to be given separately for each official year)
(3) Name of the Party.
(4) No. and date of the relative export or import application.
(5) Amount of fees realised
(6) Amount of fees refunded
(7) Signature of the officer authorised to collect L. & S. fees.
(8) Remarks.

(b) A note of the refund shall be made in red ink across the relative application to import or export filed in the Port Office. It shall also be made in the shroff's chitta against the No.of the application concerned. The 'note' referred to above shall include the amount refunded Serial No. in the Refund register and date of order for payment.

(c) The Refund Register shall take the place of the statements of refunds now put up for sanction before the Port Conservancy Board or L. & S. Fees Committee, as the case may be. The No. and date of resolution or order sanctioning the refund shall be noted therein.

3. In the case of passengers' baggage, applications to import or export in duplicate, shall continue to be filed as in the case of goods landed at or shipped from the port, and dealt with accordingly.

~~WXXXXMXXXX~~

W.F. RUFFLE,
Presidency Port Officer.

Copy to the Examiner of Local Fund Accounts, Madras with reference to his letter L.F.No.10702 dated 24-3-43.

Copy to all other Port Conservators.

P.22.

True copy

N. Ramanujam
Superintendent

No.209 G1/50-18.

Presidency Port Office,
Madras, 22-3-1951.

MEMO.

Mangalore Port - Refund of Shipping Fees amounting to Rs.597-3-4 - Your letter No.1507/50-4, dated 17-1-51.

It is observed that a register of Refund of L. & S. Fees (in manuscript) as prescribed in this office Circular No.26/43, dated 22-4-43 - copy enclosed - has not been maintainedin your office, as required. It may pleasebe stated why it is not maintained and the names of the Head Clerk and the clerk who are responsible for not maintaining this register reported. A register should now be opened and the fact reported.

2. In your letter cited above, it is stated that except for one item (export application No.2597, dated 24-11-47), all the claims are within the time limit of 6 months counting from the date as noted in the refund applications, but in the detailed statement enclosed to that letter it is stated that the claimants are not eligible for the refunds applied for under rule 17(3) of the rules for the levy of L. & S. dues. This anomaly should be explained.

3. In column (7) of the detailed statement, in respect of certain claimants, the reason for refund given, is "Separate shipping bill passed by others" or "separate shipping bill passed". These claimants have therefore surrendered their original receipts for shipping dues paid and claim refund of the amounts paid. Presumably, the "separate shipping bill" mentioned, is in respect of different cargo and not the same cargo mentioned in these surrendered receipts and that the other shipper alone was authorised by the owner or agent of the vessel to ship goods, in other words, these claimants for refunds, did not possess shipping orders when their export applications were passed in the Port Office.

Again, in respect of certain other claims, column (7) of the detailed statement gives different reasons 'such as, "Short shipped for want of space", "Vessel found under repairs" and "Vessel found over loaded and hence not shipped". These refund applications are obviously due to the fact that applications for export are passed in the port office indiscriminately without verifying whether or not the exporter holds a shipping order from accredited steamer Agents or masters of vessels in the case of native craft indicating that the goods mentioned in his export application are "intended for shipment" within the meaning of rule 2 of the Rules for the levy of landing and shipping fees. This verification should be done in future and only applications for export covered by shipping orders and accompanied by shipping bills should be passed for export. This verification is necessary with a view to obviating applications for refunds of the kind mentioned in this para and thus to minimise office work in this respect and also to see that refund claims, if received subsequently on account of 'short shipment', conform to rule 17(b) of the above rules, which says, "Applications for refunds of fees paid on export applications for shall be considered only on proof of short shipment", the term 'short shipment' applies to goods that were intended for shipment but which through accident or want of space, are unable to be taken on board.

J.M. Balmforth,

Presidency Port Officer.

To the Port Officer, Mangalore.

(True copy)

N. Ramamilam

Superintendent.

P.22.

No.2096/50-19 M E M O Presidency Port Office, Madras, 22-3-- 1951.

Sub:- Refunds of L. & S. Fees - procedure
Ref:- Your No.78/3569/50-1, dated 13-11-1950.

A register of Refund of L. & S. Fees was ordered to be maintained in this office Circular No.26/43, dated 22-4-43 (copy enclosed). Please state whey it is not maintained and also report the names of the Head Clerk and the clerk who are responsible for the omission to maintain the register.

The register should now be opened and the fact reported to this office.

J.M. Balmforth,
Presidency Port Officer.

To the Port Officer, Kakinada.
xxxxxxxxxxxxxxx (True copy) N. Ramamurthy
Superintendent.

P.22.

Copy of letter No.170/60 dated 19th August, 1949 from M/s. Rebello & Sons, Mangalore to the Port Officer, Mangalore.

With reference to your esteemed letter No.4516/49-1, of the 5th instant, we beg to confirm the following oral explanation offered to you today, by our Mr. S.B.P. Rebellow, in respect of our two applications dated 7-12-1946 and 30-5-1947, for the same lot of refund dues.

Our refund application dated 7-12-1946 was submitted on 8.12.1946 along with the relative receipts of shipments made up to 7-12-1946. For the refund of refundable dues of shipments from 7-12-1946 to the close of the shipping season 1946-1947, we have submitted a separate application dated 30-5-1947, in which we have claimed refund in respect of shipments effected from 7-12-1946, to to the close of the season 1946-1947, in respect of which you have allowed us a refund of Rs.65 as per your letter No.3972/49-1, dated 1-7-1949. If, as your learned Head Clerk, unprophetically surmises, our application dated 7-12-1947, was submitted subsequent to 30-5-1947, ante-dating the said application we would have naturally included in our application dated 30-5-1947, all the shipments effected for September 1946 to May 1947. Moreover, the fact that we have filed on 31-5-1947 a separate application dated 30-5-47, in respect of shipments made from 7-12-1946 up to the close of shipping season 1946-1947, clearly proves that we had already filed our application dated 7-12-1946 on 8-12-1946. It also disposes the unfounded fear of your Head Clerk that our broker might have filed the application dated 7-12-1946 after he was informed by your clerk that our application dated 30-5-1947 was time barred. If that was the case and if your clerk had so much love for us, he would also have taken care to return our application d.30-5-47, saying it was time barred. This further proves that our application d.7-12-46 was presented on 8.12.1946 and that the one d.30-5-1947 was only a copy of it, but with a wrong date. In fact neither our broker nor ourselves were ever informed that any of our applications was time barred. It is only in your letter No.3972/49-1, d.1-7-1949 that we have been informed, for the first time, that our applications d.7-12-1947, 30-5-1947, 15-1-1948, 7-3-1948 and 29-5-1948 were time barred.

As our broker Mr. A.J.D'Souza explained to your esteemed self in person today, he filed on 8-12-1946 our application d.7-12-1946, along with the relative receipts. But when he personally claimed the refundable dues of this application on 30-5-1947, from the concerned clerk, the latter gave him to understand that only the receipts were in his file, but that he had misplaced the application and so he handed over the receipts to our broker and requested him to rewrite and resubmit our duplicate application in respect of the shipments to which the receipts related. The broker, however, by oversight and by a slip of his pen, inserted the actual date on which he rewrote the duplicate copy of the application, viz. 30-5-1947. Whereas this rewritten duplicate copy of the application, which was originally written on 7-12-1946 and filed on 8-12-1946, would have been in time, if the date of the original application, viz. 7-12-1946, was inserted on it become time barred on account of the mere fault of the broker in having inserted the date on which he rewrote the application, viz. 30-5-1947, instead of inserting the date of the original application viz. 7-12-1946.

It is now clear that our original application dated 7-12-1946, which the concerned clerk thought he had apparently misplaced on 30-5-1947, was subsequently found by him among his papers, or, perhaps, in some other file.

We therefore, beg to request you not to penalize us for the negligence of your clerk, but to kindly give due recognition to our original application d.7-12-1946 and to cancel our rewritten application d.30-5-1947, which was only a duplicate copy of our application d. 7-12-1946, but which was rewritten on 30-5-1947 and dated 30-5-1947, as a slip of the pen and by oversight.

If the refundable dues of our application d.7-12-1946 were promptly paid to us, no occasion would have arisen to submit a duplicate copy of the original copy, with the date wrongly inserted, and all this confusion would have been saved.

38

We therefore, beg to be excused for rewriting a duplicate copy of our original application d.7-12-1946 and for dating it as 30-5-1947 when the said original application was already filed on 8.12.1946, labouring under a misapprehension that the original application was misplaced by your clerk. We further beg to submit that our original application d.7-12-1946 may be considered favourably, because it is time barred, and that you may also revise your decision in respect of our three other applications d.15-1-1948, 7-3-1948 and 29-5-1948, also you contend are time barred, in your esteemed letter No.39-72/49-1, dated 1-7-1949.

Awaiting your esteemed reply.

No.4516/49-2,

Copy submitted to the Presidency Port Officer, Madras with reference to the correspondence resting with his endt.No.1048 A/49-1, dated 28-6-1949 and this office endt.No.3972/49-3, dated 26-7-1949.

The refund applications dated 7-12-1946, and 30-5-1947 under reference to-gether with the 10 receipts No.1847, 1882, 1945, 2290, 2706, 3002, 3071, 3177, 3299, and 3521 filed on 31-5-1947 in this office with the latter refund applications (.i.e. dated 30-5-1947) are enclosed for reference and return.

The party's explanation that the refund application dated 7-12-46, which does not bear either the office seal or dated initial of the Port Officer, or Head clerk, was filed on 8-12-1946 and it was misplaced by the clerk who when enquired of by their broker Mr.A.J. D'Souza - (who is also a licensed Manifest writer and customs broker) gave the clerk tdunderstand that only the receipts were available with him (clerk) but that he had misplaced the concerned refund application, that the clerk asked the broker to rewrite the refund application handingover the receipts to him, that by oversight and a slip of the pen the broker inserted the actual date of wirting i.e. 30-5-1949, and that if he had only inserted the date of theoriginal application i.e. 7-12-1946, the application would not have become time barred and that the original refund application dated 7-12-1946 which he contends as having been filed on 8.12.1946 (but which bears no office dated seal or initials of Port Officer or Head Clerk to show when actually it was presented in the office before or after the expiry of the time limit of 6 months), was subsequently found among the clerks pending papers or in some other file, all these appear to be imaginary thinking and they do not appeal to me for the following reasons.

(1) Taking for granted that the refund application dated 7-12-1946 which does not bear dated office seal or initials of the Port Officer, etc. was filed in this office on 8-12-1946, as stated by the party and the application dated 30-5-1947, bearing office dated seal with Head clerk's initials dated 31-5-1947, the clerk concerned, certainly, would not have made the endorsements as appears on the time barred application dated 30-5-1947 (said to have been a rewritten copy of the application dated ~~xxxxxxx~~ 7-12-1946) and more so preserved it, in the file if as stated by the party, he had real love towards the party as in the case of reported handing over of the receipts to the party's broker Mr. A.J. DeSouza for rewriting the application. I do not think that a clerk with some responsibility would go to such an extent as to hand over official records to an outsider and even taking for granted he had done so for fear of being reported against by the party for misplacing the application alone but preserving the 10 receipts filed with it in tact, he would certainly have not made the endts. on a time barred refund application dated 30-5-1947 and filed on 31-5-1947 but only on the refund application dated 7-12-1946 traced from his files etc., on or after 31-5-1947 as stated by the party and destroyed the application dated 30-5-1947 on which he made his endt. in red ink.

(2) In para 5 of the letter under reference the party states that the refund application dated 30-5-1947 is only a duplicate copy of the application dated 7-12-46 rewritten and dated 30-5-47, by a slip of the pen and by oversight. But it may be seen from the entries in the refund application dated 30-5-1947 and filed on 31-5-1947 that the refund of Rs.14-6-0 being shipping dues on 23000 tiles covered by Receipt No.1945 and dated 10-10-1946 applied for in the latter refund application (i.e. 30-5-1947 and filed on 31-5- 1947) which the party has laboured so much to explain as a rewritten copy of the misplaced refund application dated 7-12-1946 by the broker on 30-5-1947 and manifest writer Mr. A.J.D'Souza, does not find place in the former application which the party contends as having been filed by him on 8-12-1946 but misplaced by the clerk. This clearly goes to prove that the refund applications dated 7-12-1946 which does not bear office dated seal or initials of the Port Officer or Head clerk was actually filed on or subsequent to 31-5-1947 when theparty came to know through their broker that this consignment covered by the receipt was actually shipped and the other items were all time barred.

At the time of offering the oral explanation referred to by M/s. M. Rebellow on 19--8-1949 my Head Clerk and the party's broker and manifest writer Mr. A.J.D'Souza were present.

The view that the application dated 7-12-1946 was filed subsequent to the date of filing of application dated 30-5-1947 is mine and it does not require any great learning or prophetic surmises as has been attributed to my Head Clerk and these remarks I consider are unwarranted and uncalled for.

The party at the time of offering thebral explanation on 19-8-1949, also informed me that when a messenger of his enquired at the Port Office counter some days prior to the above date about refunding the shipping dues since 1946-47, it appears he was told by one of the clerk, in the Landing and Shipping section that lots of refunds were pending payment and if he could only ask his master write officially, every thing would come out. He was promptly asked by me to furnish the name of the clerk or if not known to ask his Messenger to come to the office to point out the clerk concerned to enable suitable action being taken in the matter but Mr. M. Rebellow did not agree to this and went away. Separate action is being taken on the refund applications dated 15-1-48, 7-3-48 and 29-4-48 referred to in the penultimate para of the letter under reference.

For orders.

L.G. Hardas,
Port Officer.

Port Office, Mangalore,
d. 6th September 1949.

(True copy)

N. Ramamilan

Superintendent.

P.22.

41/ P.W(7)

T. M. (Pcorly) 1610-1/57.1

From A.S. P.W Deptt

To: The Principal Post Office
Ports Mangalore Refund of Shipping
fees Sanction of. Your letter No
MW.29 CF 209 51/50.17 dt 22.3.1951.

Please state when the further refund
referred to in para 4 of your letter cited may be
expected.

26.4.57

27.4.57

Post copy of Telephonic Message.

From the Presidency Port Officer, Madras,
To the Secretary to Government, Public Works Department, Madras,
No. 2094/E/50-18 Dated, 3-5-51.

Sub:- Ports - Mangalore - Refund of Shipping fees - Sanction of - Post copy of Telephonic Message from Government No.1610 F/51-1, P.W., dated 27-4-51.

The Port Officer, Mangalore has been reminded on 1-5-51 to expedite his reply. A further report will be sent to Government soon after receipt of a reply from him.

Principal Port Officer.

SECRETARY TO GOVT. F 3 MAY 1951 2365 PUBLIC WORKS DEPARTMENT

P.4.

61/616

P.W(7)

T. M. (P. only) 16/10F/52 2

5.6.57

From: A. S. P.W Deptt:

To: The Principal Port Officer.

Pali - Mangalore - Refund of Shipping fees Sanction of - Your No. 209 C1/52 18 dt 3.5.1957.

Please state when the further report referred to in Your P. Cypher M. cited may be expected.

pc dpth 7/6

4.6.57

5/57

From:
J.M.Balmforth Esq.,
Principal Port Officer,
P.B.No.13,
Madras-1.

To:
The Secretary to Government,
Public Works Department,
Madras.

ASST. SECRETARY TO GOVERNMENT
20 JUN 1951
PUBLIC WORKS DEPARTMENT

55823

No.209 Gl/51-23 dated 19--6--1951.

Sir,

Sub:- Ports - Mangalore - Refund of shipping fees - Sanction.
Ref:- Government Memo No.3182 F/50-1, P.W. dated 28-10-50 and my letter to Government No.209 G1/50-17, dated 22-3-51.

In continuation of my letter cited, I enclose herewith a copy of letter No.1507/50-7, dated 16-5-51 received from the Port Officer, Mangalore in reply to this office Memo No.209 G1/50-16, dated 28-3-51 therein and also the refund application dated 30-5-47 in original of M/s. M. Rebello & Sons, Mangalore, since traced and forwarded by the Port Officer, Mangalore, in support of my recommedation to Government in para 2 of my letter to Government cited that M/s. Rebello & Sons' claim for refund may be rejected. This application bears the date stamp of the Port Office, Mangalore and also the initial of the then Head Clerk of that Office.

2. With reference to para 1 of the letter to Government cited, I have to state that the Port Officer, Kakinada has since reported that the prescribed 'register of refund of Landing & Shipping Fees' has been maintained at his port from 1-6-1943, and that therefore the question of placing any responsibility on any individual for any irregularity does not arise. This fact of maintenance of the register was omitted to be mentioned by the Port Officer in his original report to me on the subject prior to my report to Government in this office No.209 G1/50-17, dated 22-3-51.

Encl:- one Refund application and copy of letter.

Yours faithfully,

J.M.Balmforth

Principal Port Officer.

P.1v.

p.t.o.

From the Port Officer, Mangalore,
To the Principal Port Officer, Madras,
No.1507/50-7, dated 16th May 1951.

Mangalore Port - Refund of Shipping Dues amounting to Rs.597-3-4.

Your Memo No.209 G1/50-18, dated 22-3-1951 and this office No. 1507/50-5, dated 10-5-1951.

The register of refunds prescribed in your Circular No.26/43 dated 22-4-1943 was not maintained from 1-6-1943 onwards as required and it cannot now be said why it was not maintained. The then head clerk was Sri N. Aman and the Shroff Sri V. Gopal Rao who are now no longer in service and hence no further action can be taken against them at this distant date. A register has since been opened and maintained.

2. The claimants are eligible for the refund applied for under rule 17(3) if the dates bearing on such applications are taken as the date of presentation of the applications in this office Vide also para 2 of this office No.1507/50-4 dated 17-1-1951. Necessary remarks have since been added in column 10 of the statement referred to. An application for such refund of Messrs. M. Rebello & Sons since traced from this office records bear testimony and corroborate the report. This application has both the date stamp and initial of Head Clerk (Port Conservator).

3. In the case of sailing vessels there are no authorised agents and hence they do not produce any shipping order. They ship any cargo readily available. The verification can be done only in the case of shipment made through steamers Agents. The shippers have now been instructed to produce along with application to export the shipping order from the respective steamer Agents etc.

(True copy)

Principal Port Officer.

Application for refund of landing and shipping dues under Act III of 1885.

5,002—25-2-41.

(1) Date on which shipping bill or bill of entry filed.	(2) Name of vessel.	(3) Port of destination.	(4) Particulars of cargo for which application was filed. Marks.	Quantity.	Description.	Weight or measurement.	(5) Dues paid. Amount. RS. A. P.	Number of receipt.	(6) Particulars of cargo short-shipped, etc. Marks.	Quantity.	Description.	Weight or measurement.	(7) * Amount of refund claimed. RS. A. P.	(8) Reasons of refund. [N.B.—In case of export it should be clearly stated if the cargo was actually sent off and shut out or only short-shipped.]	(9) If shut out from the vessel, was the cargo relanded and again shipped.	(10) If sent by another vessel, note. Date of shipment. Name of vessel. Port of destination.	(11) Whether shipping dues were again paid or not.	Remarks.
~~2-11-46~~	~~Bt no 11 Tuticorin~~	~~do Sanja~~	~~—~~	~~Loose~~	~~Tiles~~	~~1950 Kgs~~	~~12 8 - 3940~~	~~—~~	~~—~~	~~—~~	~~—~~	~~—~~	~~4 9~~	~~Vessel found over loaded~~				
11-46	Vittalpur	Tarapur	"	Loose	Tiles	20000 Kgs	12 8 -	3601	"	Loose	Tiles	950 Kgs	5 -	Vessel found over loaded				
~~2-11-46~~	~~Lavanisha~~	~~—~~	~~—~~	~~—~~	~~—~~	~~16762~~	~~11 4 - 3871~~	~~—~~	~~"~~	~~"~~	~~"~~	~~12~~	~~5 -~~					
12-46	Bt no 11 Tuticorin	"	"	"	"	68500	43 2 -	3887	"	"	"	2000	1 4 -					
2-46	K/maruti Jaiphad	"	"	"	"	17500	11 4 -	4293	"	"	"	17500	11 4 -	Vessel found under repairs				
2-46	Pirpasa Porbunder	"	"	"	"	30000	18 12 -	5028	"	"	"	6000	3 12 -	Vessel found over loaded				
1-47	Bt no 2 Tuticorin	"	"	"	"	60000	37 8 -	5266	"	"	"	3000	1 4 -					
1-47	Jania made	Porbunder	"	"	"	38000	23 12 -	5769	"	"	"	2000	1 4 -					
1-47	Ganesh para	—	"	"	"	37050	23 12 -	5770	"	"	"	4000	2 8 -					
1-47	Hydri	—	"	"	"	46100	29 6 -	6788	"	"	"	6500	3 12 -					

* Amount to be filled up by the Landing and Shipping Dues office.

STATION Mangalore

Dated 30/5/1947

Signature of Shipper or Agent.

P.W(7)

Memo No. 1610-F/57. 3 dt 2.7.1957

Subj: Ports - Mangalore - Refund of Shipping dues - Sanction of.

Ref. from the P.P.O No. 209 G1/51.23 dt. 19.6.1957

It is seen from the correspondence on the above subject that the P.P.O has been proceeding on the assumption that refund is permissible in all cases such as those mentioned in column 7 of the statement submitted with his letter No 209 G1/50.17 dated 2.2.1957. According to rule 14 of the Rules for the levy of landing and shipping fees at outports, goods returned from vessels for reasons beyond the control of the shippers, whether damaged or not should be allowed to be relanded free provided that the relanding pass is submitted to the proper authorities within 24 hours from the time of relanding and shipping fees paid on such goods refunded provided that such goods bear the same original mark or marks and are reshipped on payment of shipping fees. None of the reasons given in col. 7 of the statement can be classified under "reasons beyond the control of the shippers" as the goods do not appear to have been returned from any vessel. Columns 8-10 of the application for refund provide for particulars of relanding of goods reshipment etc. Rule 17 of the Rules referred to above relate only to the procedure re: the Sanction of refunds caused by rule 14. The P.P.O is requested to state how in view of the above, the parties in question are entitled for refunds.

(A) formed with the P.P.O's letter No. 209 G1/50-17 dt 22.3.51

To
The Principal Port Officer

30/7

29.7.57

7

72258

From
J.M.Balmforth,Esq.,
Principal Port Officer,
Post Box No.13,
Madras-1.

To
The Secretary to Government,
Public Works Department,
Madras.

No.209 GL/51-26d/14th Augl 1951.

Sir,

Sub:-Ports - Mangalore - Refund of Shipping Dues - Sanction of.
Ref:-Government Memo No.1610-F/51-3 P.W., dated 2-7-51.

With reference to the Government Memo cited, I have to enclose herewith a copy of letter No.2232/51-1, dated 27-7-51 from the Port Officer, Mangalore and to state that rules 14 and 17 of General Rules issued under Section 6 of the Madras out Ports Landing and Shipping Fees Act 1885 are separate and distinct. Rule 14 is specific in that it relates only to goods returned from vessels beyond the control of shippers. Rule 17 deals with refund of dues on cargo short shipped only or short landed only. Sub-rule (1) of rule 17 is in comprehensive terms and does not limit its scope to cases covered by rule 14(2) of those rules. In this connection, I would solicit a reference to Col.(8) of the form of "application for refund of Landing and Shipping Dues under Act III of 1885" (enclosed) which refers to "only short shipped" cargo also as a reason for refund of shipping fees paid on such cargo. Sub-rule (2) of the rule 17 indicates, that sub-rule (1) (b) thereof is extensive enough to cover "short shipment" due to "goods lost overboard or jettisoned within the limits of the port" and hence it would appear that the former sub-rule seeks to omit such goods from coming within the purview of the latter.

Yours faithfully,

J.M.Balmforth

Principal Port Officer.

Encl: one

(Annexure II to Chapter IV, Port Manual as amended by correction slip No.19, III list, dated 12-4-43).

From the Port Officer, Mangalore.
To the Principal Port Officer, Madras.
No.2232/51-1, dated 27-7-51.

Sub:-Refunds - Refunds of Shipping dues - Mangalore Port -

Ref:-Government Memo No.1610 F/51-3 P.W.D., dated 2-7-1951 communicated with Principal Port Officer's Endt. No.209 G1/51-25 dated 11-7-1951.

With reference to Government Memorandum read above, I may submit that rule 14 and rule 17 of General rules issued under Section 6 of the Madras Out-Ports Landing and Shipping Fees Act 1885 (Madras Act III of 1885) have been interpreted as relating to different categories of refunds as no mention of rule 14 is made in rule 17. Rule 14 appears to be specific in that it relates only to goods returned from vessels beyond the control of shippers and does not include the goods, "short shipped for want of space or otherwise etc,"which have been interpreted to be covered by only rule 17. The relanding and refund of shipping dues under rule 14 can be admitted only if the relanding pass is submitted to this office within 24 hours from the time of relanding and the goods bearing the original mark or marks are reshipped on payment of shipping dues, respectively. All other cases not covered by rule 14, referred to in the statement appear to come under rule 17 and the proof of short shipment etc. in all cases is the export general manifest of the respective vessels received from the customs office with reference to the applications for exports passed by this office in respect of the particular vessel. If rule 17 relates to the procedure regarding the sanction of refunds covered by rule 14 only, as observed by the Government, the refund of shipping dues not covered by rule 14 already made to parties in the past years will have to be recovered from them.

To set right this defect either rule 17 may be amended so as to include only goods covered by rule 14 or goods not covered by that rule such as "goods short shipped for want of space" and "goods not shipped the vessel being under repairs etc." in conformity with the observations made by the Government. In the former case refunds made in the past years will have to be waived. In this connection kind reference is also invited to para 3 of Principal Port Officer's Memo No.209-G1/50-18 dated 22-3-1951.

Pending final orders on the question, refund applications not covered by rule 14 will not be paid to parties.

/True copy/

3/3

Principal Port Officer.

MR.17.

2x/279

Ltr 16/10

59 P.W(7)

Memo No 1610 F/57. 1 dt 6.9.57

Sub: Ports - Mangalore. Refund of shipping dues - Sanction of.

1:53CF

Ref: from the P.R.O. No. 209 G1/57. 26 dt. 14.8.1957

The P.R.O is requested to ascertain and report whether refunds are allowed in case, at Coasters (other than Rule 14 of the Rules framed under the Indian Ports Act) at other minor ports, and what the practice is on Tuticorin in respect of the cases in question.

To

The Principal Port Officer

28.8.57

29/8/57

2/9/57

X

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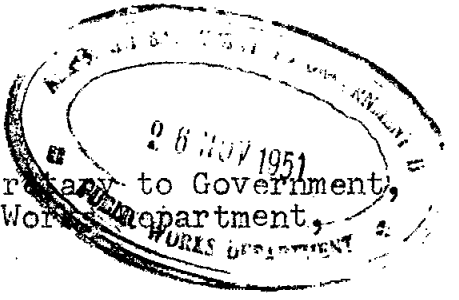

From
J.M.BALMFORTH,Esq.,
STATE Port Officer
P.B.No.13,
Madras-1.

To
The Secretary to Government,
Public Works Department,
Madras.

No.3203-G1/51-5 dated 23rd Novr. 1951.

Sir,

Sub:-Ports - Mangalore - Refund of shipping dues - Sanction of.

109884

Ref:-Government Memorandum No.1610 F/51-1,P.W., dated 6-9-1951.

With reference to the Government Memo cited, I have to state that I have ascertained from all other Minor Ports that refunds are allowed by them in cases not covered by rule 14 of the rules for the levy of Landing and Shipping Fees. A copy of letter No.5/2331 dated 28-9-1951 from the Port Officer, Tuticorin explaining the procedure obtaining at his Port in respect of such cases is enclosed.

Encl:-One.

Yours faithfully,

J M Balmforth

State Port Officer.

MR.23.

From the Port Officer, Tuticorin.
To the Principal Port Officer, Madras.
No.5/2331 dated 28-9-1951.

Ref:-Your Endorsement No.3203-G1/51-1, dated 18-9-51 on Government Memo No.1610-F/51-1, P.W., dated 6-9-51 - Refund of Shipping dues.

Refunds of shipping dues on shut out cargo are allowed when such goods bear the same original mark or marks and are reshipped on payment of shipping dues, as per Rule 1(d) of Part I of the Scale of rates and Statement of Conditions of the Tuticorin Port Trust mentioned below.

Refund of dues on other cargoes are admitted on "proof of short shipment" as per rule 17(b) of Part I of the Scale of Rates and Statemen of Conditions, mentioned below.

Part I of the Scale of Rates and Statement of Conditions of the Tuticorin Port Trust.

Rule 1(d) SHUT OUT CARGO:- Goods, whether damaged or not, returned from vessels for reasons beyond the control of the shippers shall be allowed to be relanded free of charge provided that the relanding pass is submitted at the Board's Office not later than 4 p.m. on the next full working day following.

The shipping dues paid for such goods shall be refunded if such goods bear the same original mark or marks and are reshipped on payment of shipping dues.

Rule 17. REFUNDS - CONDITIONS.

(b) Exports - Applications for refunds of dues paid on export applications shall be considered only on proof of short shipment. No claim for refund shall be admitted on goods lost overboard.

In both the above cases the non-shipment of cargo is verified from the steamer's manifests concerned; besides, in the case of shut out cargo the shut out register and the subsequent application to Export for the cargo are also verified. In both the cases dues on cargo not shipped is an overcharge and is remitted as per Section 47(2) of the Tuticorin Port Trust Act, Act II of 1924.

/True Copy/

State Port Officer.

MR.23.

K.W(F1)

38/
29+2

Sub: Ports - Mangalore - Refund of Shipping dues - Sanctioned as Special Case.

x

Ref: From the S.P.O. letter No 209 G1/50 dt. 31.8.1950

71 - Endn. of H.E. No LF 6314 dt 9.10.1950

71 - S.P.O. letter No 3203 G1/57.5 dt 23.11.1957

ORDER No 5322 dated 29.12.51

H.E the Governor of Madras hereby sanctions as a special case, the refund of Shipping dues amounting to Rs 597.3.4 (Rupees Five hundred and ninety seven, annas three and pies four) paid by parties on cargo not shipped at the Port of Mangalore.

2. The S.P.O is requested

to issue detailed instructions to the Port Officers for avoiding any slackness on the part of the departmental staff in strictly observing the rules re: levy and collection of Landing and Shipping fees.

21/12/57 21/12/57

24/12/57

To

The S.P.O. (with spare)

24/12/57

28.12.57

Sub: Ports - Mangalore - Refund of shipping dues amounting to Rs.597-3-4 - Sanction of

Ref: From the Presidency Port Officer, letter No.2096/1/50-7 dated 31-8-1950

The proposal in the file relates to the refund of shipping dues paid by certain merchants on goods which were not shipped and on which shipping dues had been paid.

2. The Presidency Port Officer has furnished a statement showing the amount of refunds due to various merchants, duly certified by the Port Officer, Mangalore to the effect that the refund applications have been checked in conjunction with the applications to export and other manifests are correct, and has requested that the sanction of Government may be obtained, as a special case, for refund of shipping dues, amounting in all to Rs.597-3-4. The reasons advanced therefor are:

(1) that the refunds claimed by the merchants are on goods which have not been shipped but on which shipping dues have been paid.

(2) that it is not now possible for the Port Officer, Mangalore to say whether the various applications for refund have or have not been preferred by the parties within the time limit of six months required under rule 17(3) of the Rules for the Levy of Landing and Shipping Dues.

(3) that the Port Conservancy Board, Mangalore which is empowered under 195-B(2) of the Port Manual to grant refunds after satisfying

itself with the fact that the claims for refund are in order, has also recommended that the benefit of doubt be given to the merchants and that the refund be paid to them.

The P.P.O. has also stated that the Port Officer, Mangalore has since been maintaining a register of refund applications received which are duly dated and initialled by the Port Officer or the Port Conservator (Head Clerk). The Examiner of Local Fund Accounts through whom the P.P.O's reference on this question was received has not offered any remarks, but he has simply forwarded the papers.

3. Attention in this connection is invited to the forms of Import and Export Registers× of applications to be maintained in the Port Department. In these forms, necessary columns have been allotted separately for refunds wherein dates of refund applications will have to be entered. If this had been filled in properly, there may not be any difficulty to find out whether the applications were received in time or not as required under Rule 17(3)× of the Rules for the Levy of Landing and Shipping Dues by comparing with the dates in the counterfoils of chalans in which the dues were paid. It is not therefore clear how it is not possible for the Port Officer, Mangalore to say whether the application for refunds were received in time. It appears ~~therefrom~~ that the registers have not been maintained properly. Instead it is now stated that a separate register of applications is being maintained. This seems ~~appears~~

to be unnecessary.

4. However before examining the proposal for refunds, the P.P.O. may be asked to state the procedure obtaining at the other minor port for making similar refunds. He may also be asked to state how it is not possible to say whether application for refunds were received in time or not and whether it may not be possible to verify this from the dates available in the counterfoils of the chalans in which the dues were paid by the merchants and the original applications filed in the Port Office, Mangalore. He may also be asked to furnish a detailed statement showing the following particulars:-

1) Name of claimant
2) No. of Export application
3) No. & Date of the counterfoil of chalan in which the shipping dues were paid by merchants.
4) Amount of refund
5) Specific reasons for refund
6) Date as furnished in the application for refund
7) Whether the goods were subsequently shipped and if so whether shipping dues were received for subsequent shipping.
8) Whether the claimant is eligible for refund under rule 17(3) of the Rules for Levy of landing and shipping dues
9)

The P.P.O. may in addition be asked to state what action was taken on the persons concerned for the serious irregularity ~~committed by not~~ of not maintaining the registers properly and also by not affixing the office date stamp and initials on refund applications. Subject to orders, a draft Memo to the P.P.O. is submitted below for approval.

approval.

Issued as Fin. No. 3182 F/50.1 dt 28.10.1950
From the P. P.O. No. 209 C1/50.17 dt 22.3.57.

To A.S.

The note above, the memo to the P.P.O on pp 17. 18 C.F. and his reply at pp 27.29 C.F. may be perused. The further report referred to in para 4 on p 29 C.F. may be awaited till 25-4-1957.

To A.S.

The further report referred to in para 4 on p 29 C.F. has not yet been received. The P. P.O may be asked about it. Draft letter is put up.

Issued as Fin. No. 1610 F/51.1 dt 27.4.1957 p 41 C.F.
From the P. P.O. No. 209 C1/57.23 dt 19.6.1957 pp 47. 49 C.F.

To A.S.

The file deals with the refund of shipping dues paid by some merchants at Mangalore. The P.C. Board, Mangalore [illegible] sanction refund of [illegible]

and shipping dues. The case has come to the Govt. because the Port staff at Mangalore did not observe the rules relating to refunds and they are not able to say whether the applications for refunds were presented in time or not. The P.C. Board has considered this question and has recommended that the merchants should be given the benefit of the doubt and that the refunds applied for by the merchants should be paid. The Port Officer, Mangalore has prepared a statement showing the amounts of refund due to the various merchants and has certified that the refund applications have been checked in conjunction with the applications to export and manifests and are correct. The P.P.O. has recommended that sanction might be accorded, as a special case, to the refund of Rs.597-3-4 involved. The P.P.O. was asked to furnish the information in the Memo. on pp.17-18 c.f. The replies of the P.P.O. are at pp.27-29 and 47-48 c.f.

2. The P.P.O. seems to be proceeding on the assumption that refund is permissible in all cases such as those mentioned in Col.7 on pp.2, 4, 6 and 8 of the statement at (A). It would appear from Rule 14 of the Rules for the levy of L. & S. Fees at Outports that goods returned from vessels for reasons beyond the control of the shippers, whether damaged or not will be allowed to be relanded free provided that the relanding pass is submitted, to the proper authorities within 24 hours from the time of relanding and shipping fees paid on such goods will be refunded provided that such goods bear the same original mark or marks and are shipped on payment of shipping Fees. None of the reasons given in Col. 7 of the statement at (A) will come under "reasons beyond the control of the shippers" and the goods do not appear to have been returned from any vessel. Columns 8-10 of the Refund application form at p.49 c.f. provide for particulars of relanding of the goods and re-shipment etc. On the face of all these details, the

in the case are not apparently entitled for any refund. For orders whether the above views may be put to the P.P.O. and his remarks obtained.

28/8/57

The P.P.O. may be consulted on the point raised in para 2 above.

28/8/57

To AS. Draft subd.

29.8.57

Issued a Otg. No. 1610-F/57.3 dt 2.7.57 from the P.P.O. No. 209-C/57.26 dt 14.8.57.

To AS.

The notes above may be perused. With reference to the memo at p 57/C, the P.P.O's reply does not seem to be convincing in view of the fact that if the rules relating to the levy and collection of Landing and Shipping fees are strictly followed, Cases of this kind in question will not arise. The P.P.O may now be asked to state what procedure is being adopted at other ports. Draft below for approval. The P.P.O. may also be advised to report unfavourable observations at Tuticorin. Draft amplified.

28.8.57

29/8/57

29/8/57

Issued as Otg No 1610-F/57.1 dt 6.9.57 from the S.P.O No. 320354.57.5 dt 23.11.57.

partes

To A.S.

The file relates to the refund of shipping dues paid by some merchants at the Port of Mangalore. The note on pp 4-6 ante explains the history of the case. The S.P.O. was asked to ascertain and report whether refunds are allowed in cases not covered by rule 14 of the Rules for the levy of S.S. fees at other ports including Tuticorin. He has reported that refunds are allowed in all other ports in cases not covered by rule 14 of the Rules. He has also forwarded a copy of the letter from the P.C. Tuticorin explaining the procedure obtaining at Tuticorin.

2. In the case of cargo returned from vessels, whether damaged or not it is allowed to be relanded free if a relanding pass is subd to the Port Office within 24 hours of relanding. If the so cargo is again shipped by a subsequent vessel, the parties are entitled to the refund on the shipping dues originally paid provided refund is claimed within 6 months. While such a procedure is followed in the case of goods returned from vessels for reasons beyond the control of the shippers, the rules are not clear regarding the refund of shipping dues in cases referred to in this file. The difficulty would not have arisen if the proper procedure is followed, vide also the memo on p 33 ante. Subd for orders whether in the circumstances, the refunds recommended by the S.P.O. may be sanctioned as a special case and he may be asked to see that the proper procedure is strictly followed in all the ports.

5-1-1951

'X' also PI look up whether there is any similar case recently where refund was sanctioned

10/1/51

8

Ref: query offs. at bottom of previous page.
Subj: that no precedent is available for cases of this kind.

13-12-57 14/12/57

Please see from 'X' on p4 ante. Had the procedure laid down in the Port Manual been followed strictly, there would not have been the difficulty which has been reported by the SPO. Attention is also invited to para 2 on p5 ante. However, this may, perhaps, be treated as a special case, as recommended by the Port Commrs. Bd, and refund of Rs 597-3-4 permitted. The SPO should, at the same time, issue detailed instructions to the POs to avoid any slackness on the part of departmental staff in strictly observing the rules.

HME(PW) keeps off map.

Norway

19/12/57

20.12.57.

To AS.

Draft subd.

21.12.57 21/12/57

24/12/57

28.12.57